

FILED

MAR 23 2018

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

Clerk, U.S. District Court
District Of Montana
Missoula

CHADWICK EDWARD COCHRAN,

CV 17-00056-BU-BMM-JCL

Plaintiff,

vs.

FINDINGS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

SUZANNE,¹

Defendant.

On December 5, 2017, this Court issued an Order finding that Plaintiff Chadwick Cochran, a prisoner proceeding without counsel, failed to state a claim against the only remaining Defendant, Suzanne. (Doc. 6.) Cochran was given an opportunity to file an amended complaint on or before February 16, 2018. (Doc. 10.) He failed to do so.

Accordingly, for the reasons set forth in the Court's December 5, 2017 Order (Doc. 6), the Court finds that Cochran has failed to state a federal claim upon which relief may be granted against the only remaining Defendant in this

¹The case caption has been amended to reflect Judge Morris's January 4, 2018 dismissal of Defendants Newell, Gavigan, Gootkin, Copeland, Gallatin County Jail, and Gallatin County Sheriff's Office. (Doc. 8.)

action, Suzanne, and therefore issues the following:

RECOMMENDATIONS

1. This matter should be DISMISSED for failure to state a federal claim.
2. The Clerk of Court should be directed to close this matter and enter judgment in favor of Defendants pursuant to Rule 58 of the Federal Rules of Civil Procedure.
3. The Clerk of Court should be directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal would have merit. The record makes plain the Complaint lacks arguable substance in law or fact.
4. The Clerk of Court should be directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Cochran failed to state a claim upon which relief may be granted.

NOTICE OF RIGHT TO OBJECT TO FINDINGS & RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT

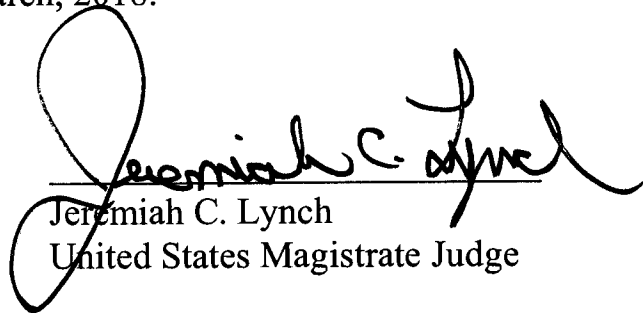
Cochran may file objections to these Findings and Recommendations within fourteen (14) days after service (mailing) hereof.² 28 U.S.C. § 636. Failure to

²Rule 6(d) of the Federal Rules of Civil Procedure provides that “[w]hen a party may or must act within a specified time after being served and service is made

timely file written objections may bar a de novo determination by the district judge and/or waive the right to appeal.

This order is not immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed until entry of the District Court's final judgment.

DATED this 23rd day of March, 2018.



Jeremiah C. Lynch
United States Magistrate Judge

under Rule 5(b)(2)(C) (mail) . . . 3 days are added after the period would otherwise expire under Rule 6(a).” Therefore, since Cochran is being served by mail, he is entitled an additional three (3) days after the period would otherwise expire.